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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/064,054      | 06/05/2002  | Yoshiyuki Nakano     | 086142-0514         | 2115             |

22428 7590 11/18/2003

FOLEY AND LARDNER  
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3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

HAYES, BRET C

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3644

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/064,054

Applicant(s)

NAKANO ET AL.

Examiner

Bret C Hayes

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3 – 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over 5,588,677 to Kopetzky et al. ('677).

3. Re – claim 1, '677 discloses a seat belt device comprising a pre-tensioner, see Figs. 1 and 2, for example, for tensioning a seatbelt 16 by moving a member 25 connected to the seatbelt; and a shock absorbing mechanism 15, 21 and 22, for absorbing shock resulting from stopping the movement of the member 25 – item 22 being a compressible member. However, '677 does not disclose the shock absorbing mechanism including two compressible members, the second compressible member surrounding the first compressible member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include two compressible members, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

4. Re – claim 3, '677 further discloses the compressible member 22 including accordion folds, see Fig. 1.

5. Re – claim 4, '677 further discloses the compressible member 22 includes a compressible portion (22) and a rigid portion (examiner's number 22').

6. Re – claim 5, '677 discloses the claimed invention including the compressible member **22** configured to begin compressing immediately upon movement of the moving member **25** due to operation of the pre-tensioner. However, '677 does not disclose a second compressible member so configured. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a second compressible member so configured, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

7. Re – claim 6, '677 discloses the claimed invention as applied to claim 5 above except for the first member **22** being configured to begin compressing after the second member has undergone a predetermined amount of compression. It would have been an obvious matter of design choice to so configure any plurality of compressible members, since Applicant has not disclosed that a second member solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with only the first member **22**. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have differing compression values for different compressible members, since this would constitute adjustability and since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

8. Re – claim 7, '677 discloses the claimed invention as applied to claims 4 and 5 above except for the compression of a second member being limited by a rigid portion of the first member **22**. It would have been an obvious matter of design choice to so configure any plurality of compressible members, since Applicant has not disclosed that a second member being limited by a rigid portion of the first member **22** solves any stated problem or is for any particular

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purpose and it appears that the invention would perform equally well with only the first member

22. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have differing compression values for different compressible members, since this would constitute adjustability and since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

9. Re – claim 8, ‘677 discloses the claimed invention as applied to claim 5 above. ‘677 discloses the member 22 covering a wire 13’, 13”, connected to the pre-tensioner. It would have been obvious to further cover the wire 13’, 13”, using a second member.

10. Re – claim 9, ‘677 discloses the member 25 connected to the seatbelt 16 comprises a buckle 17.

11. Re – claim 10, ‘677 discloses the claimed invention except for the member 25 connected to the seatbelt comprising a lap anchor. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the member 25 connected to the seatbelt comprise a lap anchor, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

12. Re – claim 11, ‘677 discloses a wire 13, 13’, 13”, connected to the member 25 and connected to the pre-tensioner.

13. Re – claim 12, ‘677 discloses the claimed invention as applied to claim 11 above, further including the mechanism 15, 21 and 22, being configured to hold the wire 13, 13’, 13”, at a predetermined angle from a direction in which the member 25 moves.

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14. Re – claims 13 and 14, '677 as applied to claims 1 – 12 above discloses the claimed invention.

15. Re – claim 15, '677 discloses the shock absorbing mechanism **15, 21 and 22** limiting the movement of member **25**.

***Response to Arguments***

16. Applicant's arguments with respect to claims 1 and 3 – 15 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Application/Control Number: 10/064,054  
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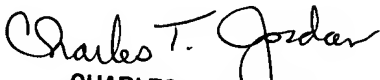
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Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306 – 4159. The fax number is (703) 872 – 9306.

bh

11/16/03

  
CHARLES T. JORDAN  
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